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7590 Darrell F. Marquette 2201 W. Desert Cove Phoenix, AZ 85029		07/27/2010	EXAMINER HUNTER, ALVIN A	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RICHARD R. SANCHEZ, LESLIE J. BRYANT,
GUILLERMO G. VALD'VIA, GARY L. TUERSCHMANN,
and PEDRO C. GOMEZ

Appeal 2009-010337
Application 10/706,481
Technology Center 3700

Before JOHN C. KERINS, STEFAN STAICOVICI and KEN B.
BARRETT, *Administrative Patent Judges*.

KERINS, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Richard R. Sanchez et al. (Appellants) seek our review under 35 U.S.C. § 134 of the Examiner's final rejection of claims 1-16, the only claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b) (2002). We REVERSE.

THE INVENTION

Appellants' claimed invention is to a method of manufacturing a golf club head. Claim 1, reproduced below, is illustrative of the claimed subject matter, and reads as follows:

1. A method of manufacturing a golf club head, comprising:

forming a club head body comprising a hollow body having a face adapted for impacting a golf ball, said club head body further comprising a body surface having a weight cavity formed therein, the weight cavity being defined by a side wall and a bottom wall;

providing a plurality of balance weights, each of said plurality of balance weights having an upper surface, a lower surface and a lateral side joining the upper surface and the lower surface;

selecting one of said plurality of balance weights;

attaching said one of said plurality of balance weights rigidly to said club head body within the weight cavity;

providing a plurality of covers, each of said covers comprising an outer surface, an inner surface and a perimeter wall;

selecting one of said plurality of covers; and
attaching said one of said plurality of covers to
said club head body so that said cover substantially
covers said one of said plurality of balance
weights.

THE REJECTIONS

The Examiner has rejected claims 1-5, 11, 12, 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Wahl (US 6,811,496 B2, issued Nov. 2, 2004). The Examiner has also rejected claims 7-10 and 13 under 35 U.S.C. § 103(a) as being unpatentable over Wahl and Peterson (US 6,162,133, issued Dec. 19, 2000); claims 6-10 and 13 as being unpatentable over Wahl and Ahn (US 6,015,354, issued Jan. 18, 2000); and claim 14 as being unpatentable over Wahl and Evans (US 6,409,612 B1, issued Jun. 25, 2002).

ISSUES

Does the Wahl patent disclose attaching a balance weight rigidly to a club head body within a weight cavity therein?

ANALYSIS

The Examiner and Appellants disagree as to whether the Wahl patent discloses attaching a balance weight rigidly to a club head body within a weight cavity of a club head, as set forth in independent claims 1 and 11. The term “rigidly” appears nowhere in the Specification, and neither the Examiner nor Appellants have presented extrinsic evidence in the form of a

dictionary definition of the term for our consideration.² Notwithstanding, the issue has been framed in terms of whether the balance weight or weights in Wahl move (not rigidly attached) or do not move (rigidly attached) once mounted in the club head body. (*See, e.g.*, Reply Br. 2; Answer 8). Framing the issue in this manner comports with the dictionary definition of “rigid” as being “not moving, fixed”³, and we will take this to be the common and ordinary meaning of the term as it would be understood by one of ordinary skill in the art.

The Wahl patent discloses a number of different embodiments of golf club heads that employ balance weights disposed in weight cavities provided on the golf club head body. (Wahl, Figs. 1-14B; *passim*). Wahl describes the use of weighting elements, such as pins 42, being disposed in an intermediate layer, such as cartridge 32, to make up an insert 30. (Wahl, Figs. 1A, 1B; col. 5, ll. 21-27). Wahl discloses that the cartridge is to be formed of a material that “has a hardness and a modulus of elasticity that are lower than that of the pins 42.” (Wahl, col. 5, ll. 40-42). The cartridges or sleeves shown in other embodiments are similarly described. The stated reason for employing a material having such characteristics is so that, “when the golf club head is used to strike a golf ball, the resulting vibrations are dissipated by compression of the intermediate layer and friction between the core and intermediate layer.” (Wahl, col. 2, ll. 58-62).

² Appellants contend that the term “rigidly mounted” is “defined in the specification”. (Reply Br. 3). Appellants do not identify where this definition appears, and we do not find any such definition.

³ THE AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE (4th ed. 2009), accessed at <http://dictionary.reference.com/browse/rigid> (last viewed on July 7, 2010).

The Examiner asserts that, in the Wahl device, “the only movement that occurs is from the compression of the sleeve.” (Answer 8). In response, Appellants ask an appropriate rhetorical question, “[h]ow can the sleeve be compressed if it is not the weight within the sleeve moving to compress it?” (Reply Br. 2). We agree with Appellants that, for there to be compression of the intermediate layer, the pins or other weighting elements must move relative to that layer in order to exert the force resulting in the compression. Thus, the pins or other weighting elements in Wahl are not rigidly attached to the golf club head.

We appreciate and understand the Examiner’s additional contentions to the effect that, due to flexion or bending of the golf club head upon impact with a golf ball, portions of the club head and the balance weight could be displaced relative to one another, even in Appellants’ club head design. We are unable to agree, however, that based on this possible phenomenon, the term “rigid” should be interpreted as “not moving in large degrees”. (Answer 9). In particular, it is unreasonable to include within the meaning of “rigidly attached” a construction in which movement, however slight, is specifically contemplated for proper operation of a device, as is the case with the Wahl patent.

The rejection of claims 1-5, 11, 12, 15 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Wahl will not be sustained. The remaining rejections are all premised upon the same erroneous finding discussed above with respect to claims 1 and 11, and neither the additional references nor any finding or analysis presented by the Examiner remedies the shortcomings of Wahl.

CONCLUSION

The pins and other weighting elements disclosed in the Wahl patent are not rigidly attached to a club head body within a weight cavity in the club head body.

DECISION

The decision of the Examiner to reject claims 1-16 is reversed.

REVERSED

mls

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